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10/764,814

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Dale Roush

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EXAMINER

HALL, ARTHUR O

ART UNIT

PAPER NUMBER

3714

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/764,814	<b>Applicant(s)</b> ROUSH, DALE	
	<b>Examiner</b> ARTHUR O. HALL	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

Examiner acknowledges applicant's amendment of claim 27 in the Response dated 5/1/2008 as part of the After Final Amendment to Final Office Action dated 1/15/2008. Claims 1-28 are pending in the application and subject to examination as part of this office action.

Examiner submits this Non-final Office Action to replace the Final Office Action dated 1/15/2008.

Examiner acknowledges that applicants arguments in the Response dated 5/1/2008 as part of the After Final Amendment directed to the rejection set forth under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) in the Final Office Action dated 1/15/2008 are deemed moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth below in view of applicants amendments and in view of applicants arguments.

Examiner acknowledges that applicants' arguments directed to Examiners objection of claims 1 and 13 set forth in the Final Office Action dated 1/15/2008 are deemed persuasive, which obviate the objection to the claims. Therefore, Examiner withdraws further objection to the claims.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. (US Patent Application Publication 2001/004336; hereinafter Reiss) in view of Dreaper et al. (US Patent Application 2004/0063484; hereinafter Dreaper). Features are described by figures with reference characters where necessary for clarity.

Regarding claims 1-2, 13, 20 and 27, Reiss teaches

a computer-implemented method or method of providing interactive entertainment associated with a broadcast sports game or an event related game or media event (paragraph 0025, Reiss; clients or users process game pieces over a computer network between computer terminals for playing an on-line interactive fantasy lottery sports game), comprises:

accessing a game set provided in a printable electronic format (paragraph 0025, Reiss; clients or users access electronic data for the game pieces by requesting information from other connected computers or terminals);

receiving event data associated with a media broadcast or broadcast sports game/event at a computer, **or in other words**, receiving at a computer a request for a printable game set associated with a media broadcast (paragraphs 0026 and 0028, Reiss; clients or users receive information regarding the game pieces for use in the sports game or event after the request is processed by a server);

the printable game set or game set including a set of trade tickets or a plurality of trade tickets, each trade ticket of the set of trade tickets or plurality of trade tickets identifying or including a unique game event or game event (paragraph 0030 and Fig. 2, 24 and 30, Reiss; plural game pieces are provided having sports figures and sporting events associated therewith), at least one of the plurality of trade tickets including a game win event associated with a team associated with the broadcast sports game (paragraph 0036 and Fig. 2, 25 and 32, Reiss; each client or user wins the prize based

on the highest number of points achieved for the game pieces that provide a win condition); and

the printable game set or game set including a unique identification number (paragraph 0034 and Fig. 3, 48, Reiss; an identification block includes the players name so as to track the game pieces of the electronic game set, and it would have been obvious at the time of invention to try an implementation in which the game set includes a number for each player since it is well known to utilize numbers to track lottery tickets and because numbers would facilitate the capability for clients or users to select the players and identify them for the purpose of awards or prizes);

However, Reiss does not appear to teach game cards, printing the game set nor distributing the game cards and trade tickets as claimed. Therefore, attention is directed to Dreaper, which teaches

generating a/the printable game set or game set, **or in other words**, printing the game set (paragraph 0103, Dreaper; the game cards are printed from electronic format at a processing office or game facility, and it would have been obvious at the time of invention to try an implementation in which the game cards and game pieces disclosed in Reiss are printed collectively as part of the game set since both the game cards and game pieces are transferred electronically to computers configured for printing),

the printable game set or game set including at least one game card or a plurality of game cards, the at least one game card or each game card of the plurality of game cards including a list/distinct list of game events or listing a unique set of game events or a set of elements associated with the media broadcast or broadcast sports game (paragraph 0025, 0027 and 0106, Dreaper; physical game cards having events or contests printed thereon are associated with broadcasted sports game and received by bettors who input into the game card information into their computers in electronic format for electronic submission to a game facility, which may be the bettors computer during online betting);

providing the printable game set or game set in an electronic format configured or configurable for printing by a user, **or in other words**, providing to a user computer the printable game set in an electronic format configured for printing on paper by a user (paragraph 0105, Dreaper; a virtual game card is displayed on a computer screen from electronic format input by the bettor from the game card received, and it would have been obvious at the time of invention to try an implementation in which the game card and game pieces disclosed in Reiss may be printed on the computer that displays the virtual card since it was well known and inherent at the time of invention that computers are configured for printing); and

distributing one game card of the plurality of game cards and a subset of trade tickets of the set of trade tickets to one of a plurality of players (paragraph 0103, Dreaper; the game cards are dispensed or delivered or distributed to bettors after being printed, and it would have been obvious at the time of invention to try an implementation in which the game cards and game pieces disclosed in Reiss are distributed collectively as part of the game set since both the game cards and game pieces are transferred electronically to computers from which each may be distributed to bettors after being printed).

The electronic game piece features disclosed by Reiss are usable with the electronic game card features disclosed by Dreaper for printing and trading since both the game pieces and game cards are implemented for electronic sporting events and are received into a computer configured for printing so as to be printed either at a processing facility or by the bettor or user themselves, and because once the game cards and game pieces are printed, one having ordinary skill in the art would have been inclined to trade the physical game pieces exchanged electronically in Reiss with other clients or users since each client or user requires the opportunity to commonly select a game piece.

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to use the electronic game piece features as taught by Reiss with the electronic game card features configured for and printed as taught by Dreaper to facilitate trading of the game pieces because use of these features in combination would improve the printing, distribution and subsequent trading of game pieces in a sports event contest in the same manner or way as the game pieces are electronically exchanged between clients or users since the techniques are known to be used in the described way and for the described purposes.

Regarding claims 3-7, 10-12, 15, 17-19, 24-26 and 28, Reiss teaches

Regarding claim 3, the set of trade tickets includes two trade tickets each indicating a win event for a different team (paragraph 0036 and Fig. 2, 25 and 32, Reiss; a win event occurs when a client obtains the highest number of points to attain the prize and each game piece discloses the number of points obtainable for that game piece and the prize amount is disclosed).

Regarding claims 4 and 17, inserting an advertisement in the printable game set is disclosed (paragraph 0027, Reiss).

Regarding claims 5 and 18, inserting an advertisement on the at least one game card or each of the plurality of game cards is disclosed (paragraph 0027, Reiss; advertising is input into a web page that the client can access, and it would have been obvious at the time of invention to try an implementation in which the game cards disclosed in Dreaper have the advertising inserted thereon since the advertising data is provided electronically and would only require arrangement of the advertising text onto a portion of the game card for printing).

Regarding claim 6, retrieving an advertisement from an advertiser system is disclosed (paragraph 0027, Reiss; clients may access an advertisement from the web page).

Regarding claims 7 and 15, acquiring user information from or associated with the user is disclosed (paragraph 0034, Reiss; clients are required to input their user name and password to access their accounts, and it is well known that online accounts require various user data or information for setup).

Regarding claims 10 and 19, associating a unique number with the game set or printable game set is disclosed (paragraph 0034, Reiss; an identification block includes the players name so as to track the game pieces of the electronic game set, and it would have been obvious at the time of invention to try an implementation in which the game set is associated with a number for each player since it is well known to utilize numbers to track lottery tickets and because numbers would facilitate the capability for clients or users to select the players and identify them for the purpose of awards or prizes).

Regarding claim 11, the unique number is associated with a lottery (paragraph 0034, Reiss; an identification block includes the players name so as to track the game pieces of the electronic game set to determine success in the sports fantasy lottery, and it would have been obvious at the time of invention to try an implementation in which the game set is associated with a number for each player since it is well known to utilize numbers to track lottery tickets and because numbers would facilitate the capability for clients or users to select the players and identify them for the purpose of awards or prizes).



Regarding claim 12, inserting a coupon in the printable game set is disclosed (paragraph 0037, Reiss; promotions are associated with the electronic game pieces, and it is well known that coupons are promotional devices).

Regarding claim 24, a player exchanges a trade ticket with a second player in response to the occurrence of a game event listed on the trade ticket (paragraph 0025, Reiss; clients or users exchange game pieces electronically via computer terminals, and it would have been obvious at the time of invention to try an implementation in which physical game pieces exchanged electronically in Reiss are traded with other clients or users since each client or user requires the opportunity to commonly select a game piece).

Regarding claim 25, distributing a prize to a player holding a trade ticket indicating a game winning event upon completion of the media event is disclosed (paragraph 0034, Reiss; a prize is awarded to the client or user when a game piece indicates a win in the lottery for the designated sports event).

Regarding claim 26, displaying the media event is disclosed (paragraph 0030, Reiss; game pieces associated with events are displayed to the client browser).

Regarding claim 28, an award is distributed based at least in part on the unique identification number (paragraph 0034, Reiss; a prize is awarded to the client or user when a game piece including a player's name indicates a win in the lottery for the designated sports event, and it would have been obvious at the time of invention to try an implementation in which the game set is associated with a number for each player since it is well known to utilize numbers to track lottery tickets and because numbers would facilitate the capability for clients or users to select the players and identify them for the purpose of awards or prizes).

The claimed features of claims 8-9, 14, 16 and 21-23 do not appear to be disclosed in Reiss; therefore, attention is directed to Dreaper, which teaches

Regarding claims 8 and 16, the user information or information associated with the user includes user location information or location information (paragraphs 0031 and 0106, Dreaper; the bettors or participants information includes the location of the contest or gaming location, which may be the bettors home).

Regarding claim 9, the printable game set is generated using the user information (paragraph 0103 and 0105, Dreaper; the game card is printed from electronic information or data, and it would have been obvious at the time of invention to try an implementation in which the bettors information is part of the printed game card since the game card is distributed directly to the bettor and the bettor may input game card information for printing on their home computer, which could include the bettors information).

Regarding claim 14, the media broadcast or broadcast sports game is a sports event or football game (paragraph 0026, Dreaper).

Regarding claim 21, a player of the plurality of players marks a game card in response to the occurrence of game events included in the distinct list of game events (paragraph 0028, Dreaper; the bettor selects a likely outcome for a game event associated with a game card).

Regarding claim 22, scoring each game card of the plurality of game cards upon completion of the media event is disclosed (paragraphs 0027-0028, Dreaper).

Regarding claim 23, distributing a prize to a player in response to scoring each game card is disclosed (paragraph 0108, Dreaper).

### ***Response to Arguments***

Applicant's arguments filed in the Response dated 5/1/2008 as part of the After Final Amendment with respect to Examiners' rejection under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) have been considered fully and are moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth above in view of applicants amendments and in view of applicants arguments thereof.

Examiner has provided the above new grounds of rejection of the claims under 35 U.S.C. 103(a) because each of the features of applicant's claimed invention continues to be unpatentable or obvious over the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

C US-2003/0109310 A1, Heaton et al.

D US-2003/0060261 A1, Katz et al.

E US-2004/0104845 A1, McCarthy

F US-2002/0037767 A1, Ebin

G US-6,527,270 B2, Maksymec et al.

H US-2003/0008695 A1, Libby et al.

I US-2001/0016509 A1, Kusuda

J US-5,411,258, Wilson et al.

K US-6,024,640, Walker et al.

L US-5,683,090, Zeile et al.

M US-4,918,603, Hughes et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARTHUR O. HALL whose telephone number is (571)270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. O. H./  
Examiner, Art Unit 3714

/Scott E. Jones/  
Primary Examiner, Art Unit 3714